

Advisory Opinion

IECDB AO 2007-01

June 28, 2007

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on the issue of lobbyists and PACs mailing campaign contributions during legislative session and the candidates receiving the contributions after session. The Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

OPINION:

Iowa Code section 68A.504(1) provides for the following:

“A lobbyist or political committee, other than a state statutory political committee, county statutory political committee, or a national political party, shall not contribute to, act as an agent or intermediary for contributions to, or arrange for the making of monetary or in-kind contributions to the campaign of an elected state official, member of the general assembly, or candidate for state office on any day during the regular legislative session and, in the case of the governor or a gubernatorial candidate, during the thirty days following the adjournment of a regular legislative session allowed for the signing of bills. Except as set out in subsection 2, an elected state official, member of the general assembly, or candidate for state office shall not accept a contribution as prohibited in this subsection.”

The issue has been raised that if a lobbyist or political committee (PAC) mails a contribution during legislative session, but the candidate for state office does not receive

the contribution until after session has ended, have the statutory prohibitions been triggered?¹

We are of the opinion that when a lobbyist or PAC mails a contribution during legislative session, regardless of when the recipient candidate for state office ultimately receives the contribution, the lobbyist or PAC has contributed to, acted as an agent or intermediary for contributions to, or arranged for the making of contributions. This is especially true in light of the fact that the lobbyist or PAC discloses on their public disclosure reports that the contribution was made during the legislative session (the date the check was issued).

Thus, when a contribution is mailed during the legislative session by the lobbyist or PAC, the Board will deem the lobbyist or PAC as having made a contribution during session in prohibition of the statute regardless of when the recipient candidate for state office receives the contribution.

When a candidate for state office receives a contribution after session when the contribution was mailed by the lobbyist or PAC prior to session ending, the statute prohibits a state candidate or officeholder from accepting “a contribution as prohibited in this subsection.” Thus, since the contribution was impermissibly made during session, it would be illegal for the recipient candidate to accept the contribution even if it was ultimately received after session ended.

For further guidance on this issue, the Board encourages all lobbyists, PACs, and candidates for state office to review Iowa Code section 68A.504, Board rule 351—8.15, and IECDB Advisory Opinions 2001-01, 2002-09, 2004-07, and 2005-21.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹For purposes of this opinion, references to “legislative session” encompass the additional 30 days after session in which contributions from lobbyists and PACs to the Governor or gubernatorial candidates are prohibited. “Candidate for state office” encompasses elected state officeholders in the executive branch, members of the General Assembly, and candidates for any of those offices.